



## **CITY PLANNING COMMISSION**

October 27, 2010 / Calendar No. 13

N 100294(A) ZRM

**IN THE MATTER OF** an application submitted by CRP/Extell Parcel L, LP and CRP/Extell Parcel N, LP pursuant to Sections 197-c and 201 of the New York City Charter, in accordance with Section 2-06 (c) (1) of the Uniform Land Use Review Procedure Rules, for an amendment of the Zoning Resolution of the City of New York, concerning Section 23-144 (In designated areas where the Inclusionary Housing Program is applicable), Section 23-954 (Additional requirements for compensated developments), Section 74-743 (Special provisions for bulk modification), and Appendix F (Inclusionary Housing Designated Areas), Borough of Manhattan, Community District 7.

An application for a zoning text amendment (N 100294 ZRM) was filed by CRP/Extell Parcel L, LP and CRP/Extell Parcel N, LP on April 7, 2010 to facilitate the construction of a mixed-use development of approximately three million square feet of residential, commercial, and community facility floor area and public parking on a site bounded by West 61<sup>st</sup> Street, West End Avenue, West 59<sup>th</sup> Street, and the future alignment of Riverside Boulevard in Manhattan Community District 7. A modified application (N 100294A ZRM) was filed on August 20, 2010, pursuant to Section 2-06(c)(1) of the Uniform Land Use Review Procedure (ULURP) rules. That application is considered herein.

### **RELATED ACTIONS**

In addition to the zoning text amendment which is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

- |                     |  |
|---------------------|--|
| <b>N 100295 ZRM</b> | Zoning text amendment to Section 74-744 (Modification of Use Regulations) to allow the Commission to allow, by special permit, automotive sales and service establishments not otherwise permitted by underlying district regulations. |
| <b>C 100287 ZSM</b> | Special permit pursuant to Section 74-681 to allow development in a former rail yard and over a railroad or transit right-of-way and to establish the reference plane of the development.  |

<b>C 100288 ZSM</b>	Special permit pursuant to Sections 13-562 and 74-52 to allow a public parking garage with a maximum of 1,800 spaces.
<b>C 100289 ZSM</b> <b>C 100290 ZSM</b> <b>C 100291 ZSM</b> <b>C 100292 ZSM</b> <b>C 100293 ZSM</b>	Special permits pursuant to Sections 13-562 and 74-52 to allow separate public parking garages with a maximum, respectively, of 460 spaces; 230 spaces; 290 spaces; 370 spaces; and 450 spaces.
<b>C 100296(A) ZSM</b>	Special permit pursuant to Section 74-743 to modify, in a General Large-Scale Development, regulations governing required street wall, tower setbacks and locations, minimum distance between buildings, and courts and the base and maximum floor area ratios and unit distribution requirements in Section 23-90 (Inclusionary Housing).
<b>C 100297 ZSM</b>	Special permit pursuant to Section 74-744(a)(2) to modify use regulations to allow an automotive sales and service establishment in a general large-scale development.
<b>N 100298 ZAM</b>	Authorization pursuant to Section 13-553 to allow a curb cut on a wide street (West End Avenue).
<b>N 100286 ZCM</b> <b>N 100299 ZCM</b>	Certifications pursuant to Section 26-15 to allow additional curb cuts in excess of one per narrow street frontage on West 61 <sup>st</sup> Street and West 59 <sup>th</sup> Street.
<b>N 100300 ZCM</b>	Certification pursuant to Section 26-17 to modify the streetscape regulations governing retail continuity, location of signs, and ground-floor transparency.
<b>M 920358(D) ZSM</b>	Modification of a previously approved General Large-Scale Development special permit and restrictive declaration to reflect the current proposal.

## **BACKGROUND**

A full background discussion and description of this application appears in the related report for a special permit (C 100296A ZSM).

## **ENVIRONMENTAL REVIEW**

This application (N 100294A ZRM), in conjunction with the applications for the related actions, was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and

the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 09DCP020M. The lead agency is the City Planning Commission.

A summary of the environmental review appears in the related report for a special permit (C 100296A ZSM).

## **PUBLIC REVIEW**

On May 24, 2010, the original text amendment application (N 100294 ZRM), in conjunction with the related non-ULURP applications, was referred to Community Board 7 and to the Manhattan Borough President for information and review. On May 24, 2010, applications for related actions that were certified as complete by the Department of City Planning were duly referred to Manhattan Community Board 7 and the Manhattan Borough President in accordance with Title 62 of the rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Community Board 7 held a public hearing on the original text amendment application (N 100294 ZRM) and the related applications (N 100295 ZRM, C 100287 ZSM, C 100288 ZSM, C 100289-100293 ZSM, C 100296 ZSM, C 100297 ZSM, N 100298 ZAM, N 100286 ZCM, N 100299 ZCM, N 100300 ZCM, and M 920358D ZSM) on July 22, 2010 and on that date, by a vote of 35 to 3, adopted a report recommending conditional disapproval of the applications.

A summary of the recommendations of Community Board 7 appears in the related report for a special permit (C 100296A ZSM).

### **Borough President Recommendation**

The original text amendment application (N 100294 ZRM) and the related applications (N 100295 ZRM, C 100287 ZSM, C 100288 ZSM, C 100289-100293 ZSM, C 100296 ZSM, C

100297 ZSM, N 100298 ZAM, N 100286 ZCM, N 100299 ZCM, N 100300 ZCM, and M 920358D ZSM) were considered by the Manhattan Borough President, who issued a recommendation on August 31, 2010 recommending conditional disapproval of the applications.

A summary of the recommendations of the Borough President appears in the related report for a special permit (C 100296A ZSM).

### **City Planning Commission Public Hearing**

On August 25, 2010 (Supplemental Calendar No. 9) the City Planning Commission scheduled September 15, 2010, for a public hearing on this application (N 100294A ZRM) in conjunction with the hearing on the related actions. The hearing was duly held on September 15, 2010 (Calendar No. 25).

There were a number of appearances, as described in the report on the related application for special permit (C 100296A ZSM), and the hearing was closed.

### **WATERFRONT REVITALIZATION PROGRAM CONSISTENCY**

This action, as revised and in conjunction with the related actions, was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et. seq.) The designated WRP number is 09-002.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

## **CONSIDERATION**

The Commission believes that this application for amendment of the Zoning Resolution is appropriate.

A full consideration and analysis of the issues, and reason for approving this application appears in the related report for a special permit (C 100296A ZSM).

## **RESOLUTION**

**RESOLVED**, that having considered the Final Supplemental Environmental Impact Statement (FSEIS), including Chapter 28 “Modifications to the Proposed Project” thereof, for which a Notice of Completion was issued on October 15, 2010, with respect to this application (CEQR No. 09DCP020M), and the CEQR Technical Memoranda issued on September 10, 2010 and October 26, 2010, with respect to modifications of this application set forth herein, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and regulations have been met and that,

1. Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the action to be approved, with the modifications set forth and analyzed in the Technical Memorandum dated October 26, 2010, is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FSEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the Restrictive Declaration attached as Exhibit B hereto, those project components related to the environment and mitigation measures that were identified as practicable.

This report of the City Planning Commission, together with the FSEIS and Technical Memoranda, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

**RESOLVED**, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination, and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is old, to be deleted;

Matter within # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution

\* \* \*

## **ARTICLE II: RESIDENCE DISTRICT REGULATIONS**

\* \* \*

### **Chapter 3**

#### **Bulk Regulations for Residential Buildings in Residence Districts**

\* \* \*

#### **23-144**

##### **In designated areas where the Inclusionary Housing Program is applicable**

In #Inclusionary Housing designated areas#, as listed in the table in this Section, the maximum permitted #floor area ratios# shall be as set forth in Section 23-952 (Floor area compensation in Inclusionary Housing designated areas). The locations of such areas are specified in [APPENDIX F](#) (Inclusionary Housing Designated Areas) of this Resolution.

Community District

Zoning District

Community District 1, Bronx	R6A R7-2 R7A R7X R8A
Community District 4, Bronx	R8A R9D
Community District 1, Brooklyn	R6 R6A R6B R7A R7-3
Community District 2, Brooklyn	R7A R8A R9A
Community District 3, Brooklyn	R7D
Community District 6, Brooklyn	R7-2
Community District 7, Brooklyn	R7A R8A
Community District 14, Brooklyn	R7A
Community District 3, Manhattan	R7A R8A R9A
Community District 6, Manhattan	R10
Community District 7, Manhattan	R9A <u>R10</u>
Community District 1, Queens	R7A
Community District 2, Queens	R7X

\* \* \*

## 23-954

### Additional requirements for compensated developments

- (a) Height and setback in #Inclusionary Housing designated areas#
  - (1) In #Inclusionary Housing designated areas#, except within #Special Mixed Use Districts# and #general large-scale developments# in C4-7 Districts within the boundaries of Manhattan Community District 7, subject to the provisions of a restrictive declaration, the #compensated development# must comply with the height and setback regulations of Sections 23-633 (Street wall location and height and setback regulations in certain districts) or 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts), as applicable.
  - (2) In #Inclusionary Housing designated areas# within #Special Mixed Use Districts#, the #compensated development# must comply with the provisions of paragraphs (a) or (b) of Section 123-662 (All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations), as applicable. However, where the #Residence District# designation is an R6 District without a letter suffix, the #compensated development# must comply with the height and setback regulations of Section 23-633, regardless of whether the #building# is #developed# or #enlarged# pursuant to the Quality Housing Program.
- (b) Compensated development building permits
  - (1) #HPD# may issue a #permit notice# to the Department of Buildings at any time on or after the #regulatory agreement date#. The Department of Buildings may thereafter issue building permits to a #compensated development# that utilizes #floor area compensation# based on the #affordable housing# described in such #permit notice#.

- (2) If #HPD# does not receive confirmation that the #regulatory agreement# has been recorded within 45 days after the later of the #regulatory agreement date# or the date upon which #HPD# authorizes the recording of the #regulatory agreement#, #HPD# shall suspend or revoke such #permit notice#, notify the Department of Buildings of such suspension or revocation and not reinstate such #permit notice# or issue any new #permit notice# until #HPD# receives confirmation that the #regulatory agreement# has been recorded. Upon receipt of notice from #HPD# that a #permit notice# has been suspended or revoked, the Department of Buildings shall suspend or revoke each building permit issued pursuant to such #permit notice# which is then in effect for any #compensated development#.
- (c) Compensated development certificates of occupancy
- (1) The Department of Buildings shall not issue a temporary or permanent certificate of occupancy for any portion of the #compensated development# that utilizes #floor area compensation# until #HPD# has issued a #completion notice# with respect to the #affordable housing# that generates such #floor area compensation#. However, where any #story# of a #compensated development# contains one or more #affordable housing units#, the Department of Buildings may issue any temporary or permanent certificate of occupancy for such #story# if such temporary or permanent certificate of occupancy either includes each #affordable housing unit# located in such #story# or only includes #dwelling units# or #rooming units# that are #affordable housing units#. Nothing in the preceding sentence shall be deemed to prohibit the granting of a temporary or permanent certificate of occupancy for a #super's unit#.
- (2) #HPD# shall not issue a #completion notice# with respect to any portion of any #generating site# unless:
- (i) the Department of Buildings has issued temporary or permanent certificates of occupancy for all #affordable housing# described in such #completion notice# and such certificates of occupancy have not expired, been suspended or been revoked; or
- (ii) where a #generating site# contains #affordable housing# that had a valid certificate of occupancy on the #regulatory agreement date# and no new temporary or permanent certificate of occupancy is thereafter required for the creation of such #affordable housing#, #HPD# has determined that all renovation and repair work required by the applicable #regulatory agreement# has been completed and all obligations with respect to the creation of such #affordable housing# have been fulfilled in accordance with the applicable #regulatory agreement#.

\* \* \*

## ARTICLE VII: ADMINISTRATION



\* \* \*

## **Chapter 4**

### **Special Permits by the City Planning Commission**

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#### **74-743**

#### **Special provisions for bulk modification**

- (a) For a #general large-scale development#, the City Planning Commission may permit:
- (1) distribution of total allowable #floor area#, #rooming units#, #dwelling units#, #lot coverage# and total required #open space# under the applicable district regulations within a #general large-scale development# without regard for #zoning lot lines# or district boundaries subject to the following limitations:
    - (i) no distribution of #bulk# across the boundary of two districts shall be permitted for a #use# utilizing such #bulk# unless such #use# is permitted in both districts;
    - (ii) when a #general large-scale development# is located partially in a #Residence District# or in a C1, C2, C3 or C4-1 District and partially in other #Commercial# or #Manufacturing Districts#, no transfer of commercial #floor area# to a #Residence District# or to a C1, C2, C3 or C4-1 District from other districts shall be permitted;
  - (2) location of #buildings# without regard for the applicable #yard#, #court#, distance between #buildings#, or height and setback regulations;
  - (3) variation in the location of primary business entrances and #show windows# along frontages adjacent to #zoning lots# outside the #general large-scale development# without regard to regulations applicable near #Residence District# boundaries;
  - (4) the maximum #floor area ratio# permitted pursuant to Section 23-142 (In R6, R7, R8 or R9 Districts) for the applicable district without regard for #height factor# or #open space ratio# requirements provided that the #general large-scale development# is located partially in a C6-1, C6-2 or C6-3 District within the boundaries of Community District 7 in Manhattan and that a minimum of 50 percent of the required #open space# is provided within the #general large-scale development#. Required #open space# for the purposes of this paragraph, (a)(4), shall be calculated by utilizing the smallest #open space ratio# at the maximum #floor area ratio# pursuant to Section 23-142 for the applicable district;

- (5) in an #Inclusionary Housing designated area# in a C4-6 or C5 District:
  - (i) a portion of the #lot area# that contains a wholly #commercial building# to be excluded from the calculation of #floor area# for any other #buildings# on the remainder of the #zoning lot#; or
  - (ii) community facility #floor area# located above the ground floor to be excluded from the calculation of the amount of #affordable housing# required pursuant to Section 23-95; or
- (6) modification of the requirements of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) for #developments# or #enlargements#, where:
  - (i) the required minimum distance as set forth in Section 23-86 is provided between the #legally required window# in the new #development# or #enlargement# and a wall or #lot line # on an abutting property; and
  - (ii) the required minimum distance is provided by a light and air easement acceptable to the Department of City Planning and recorded in the County Clerk's office in the county in which such tracts of land are located.
- (7) modification of the definition of #outer court# in Section 12-10 (DEFINITIONS) and the provisions of Section 23-84 (Outer Court Regulations) to include any open area that is bounded on all sides but one by building walls and is not otherwise a #yard# or an #inner court#, provided that:
  - (i) such modifications are permitted only for #general large-scale developments# previously approved by the City Planning Commission in a C4-7 District within the boundaries of Manhattan Community District 7; and
  - (ii) the minimum distance between a #legally required window# facing onto such #outer court# and a building wall shall be 30 feet, measured in a horizontal plane at the sill level of, and perpendicular to such window for the full width of the rough window opening.
- (8) In an #Inclusionary Housing designated area# in a C4-7 district within the boundaries of Manhattan Community District 7, for the purpose of applying the Inclusionary Housing Program within such #Inclusionary Housing designated area#:
  - (i) modification of the base and maximum #floor area ratios# specified in Section 23-952, not to exceed the maximum #floor area ratios# permitted by the underlying district, based on a proportionality between #affordable floor area# and #residential floor area# in #buildings# containing multiple

#uses#; and

(ii) modification of the requirements regarding distribution of #affordable housing units# specified in Section 23-96(b)

as set forth in a restrictive declaration.

- (b) In order to grant a special permit pursuant to this Section for any #general large-scale development#, the Commission shall find that:
- (1) the distribution of #floor area#, #open space#, #dwelling units#, #rooming units# and the location of #buildings#, primary business entrances and #show windows# will result in a better site plan and a better relationship among #buildings# and open areas to adjacent #streets#, surrounding #development#, adjacent open areas and shorelines than would be possible without such distribution and will thus benefit both the occupants of the #general large-scale development#, the neighborhood, and the City as a whole;
  - (2) the distribution of #floor area# and location of #buildings# will not unduly increase the #bulk# of #buildings# in any one #block# or unduly obstruct access of light and air to the detriment of the occupants or users of #buildings# in the #block# or nearby #blocks# or of people using the public #streets#;
  - (3) where a #zoning lot# of a #general large-scale development# does not occupy a frontage on a mapped #street#, appropriate access to a mapped #street# is provided;
  - (4) considering the size of the proposed #general large-scale development#, the #streets# providing access to such #general large-scale development# will be adequate to handle traffic resulting therefrom;
  - (5) when the Commission has determined that the #general large-scale development# requires significant addition to existing public facilities serving the area, the applicant has submitted to the Commission a plan and timetable to provide such required additional facilities. Proposed facilities that are incorporated into the City's capital budget may be included as part of such plan and timetable;
  - (6) where the Commission permits the maximum #floor area ratio# in accordance with the provisions of paragraph (a)(4) of this Section, the #open space# provided is of sufficient size to serve the residents of new or #enlarged buildings#. Such #open space# shall be accessible to and usable by all residents of such new or #enlarged buildings#, have appropriate access, circulation, seating, lighting and paving, and be substantially landscaped. Furthermore, the site plan of such #general large-scale development# shall include superior landscaping for #open space# of the new or #enlarged buildings#;

- (7) where the Commission permits the exclusion of #lot area# or #floor area# in accordance with the provisions of paragraph (a)(5) of this Section or modification of the base and maximum #floor area ratios# or requirements regarding distribution of #affordable housing units# in accordance with paragraph (a)(8) of this Section, such modification will facilitate a desirable mix of #uses# in the #general large-scale development# and a plan consistent with the objectives of the Inclusionary Housing Program and those of Section 74-74 (General Large-Scale Development) with respect to better site planning; and
- (8) a declaration with regard to ownership requirements in paragraph (b) of the #general large-scale development# definition in Section 12-10 (DEFINITIONS) has been filed with the Commission.

The Commission may prescribe additional conditions and safeguards to improve the quality of the #general large-scale development# and to minimize adverse effects on the character of the surrounding area.

For a phased construction program of a multi-building complex, the Commission may, at the time of granting a special permit, require additional information, including but not limited to a proposed time schedule for carrying out the proposed #general large-scale development#, a phasing plan showing the distribution of #bulk# and #open space# and, in the case of a site plan providing for common #open space#, common open areas or common parking areas, a maintenance plan for such space or areas and surety for continued availability of such space or areas to the people they are intended to serve.

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## **APPENDIX F: INCLUSIONARY HOUSING DESIGNATED AREAS**

\* \* \*

### **Manhattan**

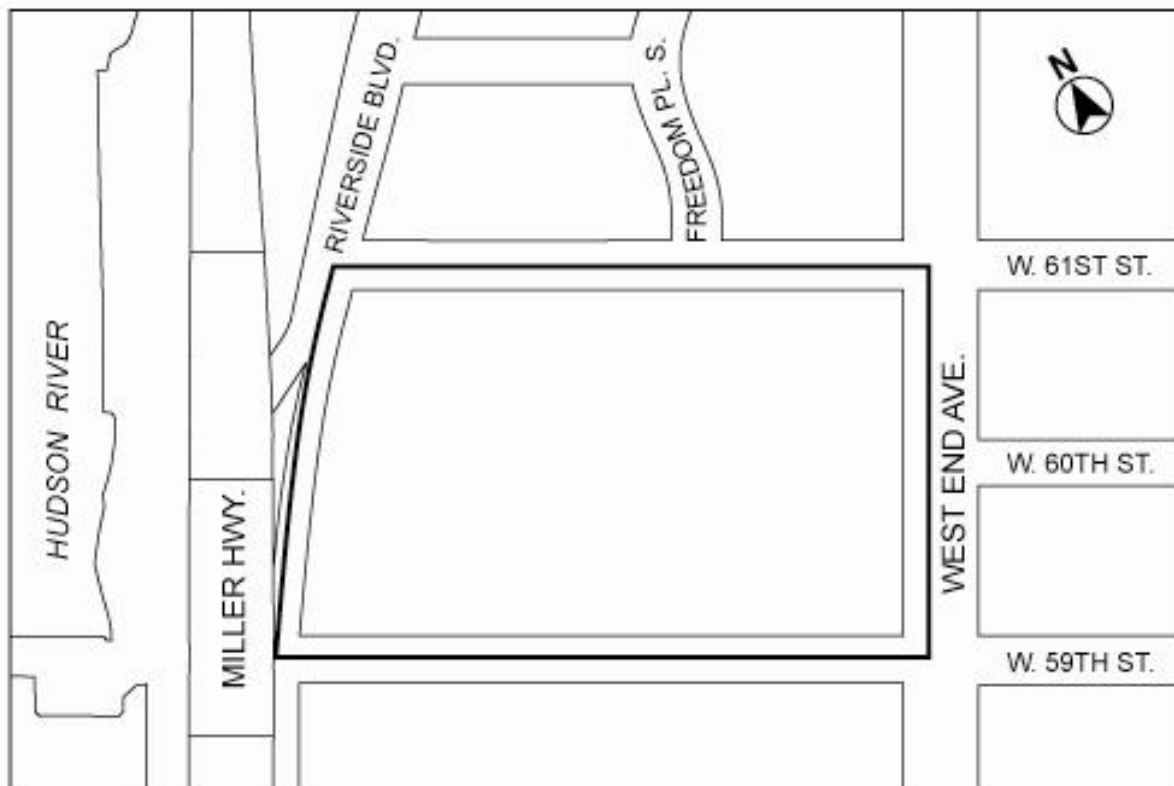
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Manhattan Community District 7

In the R9A and R10 Districts within the areas shown on the following Maps 1 and 2:

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### Map 2



Portion of Community District 7, Manhattan

The above resolution (N 100294A ZRM), duly adopted by the City Planning Commission on October 27, 2010 (Calendar No. 13), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, FAICP, Chair**  
**KENNETH J. KNUCKLES, ESQ., Vice Chairman**  
**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,**  
**ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,**  
**RICHARD W. EADDY, NATHAN LEVENTHAL, ANNA HAYES LEVIN,**  
**SHIRLEY A. McRAE, KAREN A. PHILLIPS, Commissioners**